

REMARKS

In view of the foregoing amendments and the following remarks, Applicants respectfully submit that all claims of the instant application are in condition for allowance, an indication of which is respectfully requested. Claims 1 and 11 have been amended, and claims 16 and 17 have been added. Support for the present amendments and the added claims may be found in the published application at, for example, paragraphs [0008, 0012, 0085, and 0102-0106] and FIG. 9. No new matter is believed to have been introduced.

As a preliminary matter, Applicants thank Examiner McAdams for the thoughtful courtesies and kind treatments afforded to Applicants' representative, Babak Akhlaghi, during the telephonic interview conducted on March 24, 2010. This response reflects the substance of the interview.

Claim Rejections - 35 U.S.C. § 103

Claims 1, 5, 6, and 11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Number 7,007,092 ("Peiffer") in view of U.S. Patent Number 6,917,971 ("Klein"). Claims 3, 10, 13, and 14 were rejected under § 103(a) as being unpatentable over Peiffer in view of Klein and further in view of U.S. Patent Number 6,606,661 ("Agrawal"). Claims 4, 7-9, and 12 were rejected under § 103(a) as being unpatentable over Peiffer in view of Klein and further in view of U.S. Patent Number 6,101,542 ("Miyamoto"). Applicants respectfully traverse these rejections for at least the following reasons.

During the interview, Applicants' representative discussed the possibility of amending claim 1 to recite a traffic control apparatus including, among other features, a unit for measuring reception performance of each of the client apparatuses including a network performance

between each of the client apparatuses and the traffic control apparatus and a unit for controlling a relay of a newly received service request to the server apparatus, based on transmission performance of the server apparatus and a total of the reception performance of the client apparatuses that are being coupled to the server apparatus.

The Office Action concedes that Peiffer fails to expressly disclose a unit for measuring reception performance of a client apparatus. *See*, Office Action at page 4. The Office Action, however, asserts that Klein provides such a teaching. Applicants disagree.

Klein appears to disclose a client which measures a total client segment time. However, total response time agent 114 of Klein is disposed within client 104 (see, FIG. 2 of Klein), and not disposed at a traffic control apparatus. Furthermore, Klein does not appear to show measuring a network performance between each of the client apparatuses and the traffic control apparatus.

As such, Klein fails to describe or suggest a traffic control apparatus including, among other features, a unit for measuring reception performance of each of the client apparatuses including a network performance between each of the client apparatuses and the traffic control apparatus and a unit for controlling a relay of a newly received service request to the server apparatus, based on transmission performance of the server apparatus and a total of the reception performance of the client apparatuses that are being coupled to the server apparatus, as recited in claim 1.

During the interview, the Examiner pointed to column 7, line 60 to column 8, line 11 of Peiffer as being relevant. However, this portion of Peiffer also does not appear to describe or suggest a traffic control apparatus including, among other features, a unit for measuring reception performance of each of the client apparatuses including a network performance

between each of the client apparatuses and the traffic control apparatus and a unit for controlling a relay of a newly received service request to the server apparatus, based on transmission performance of the server apparatus and a total of the reception performance of the client apparatuses that are being coupled to the server apparatus, as recited in claim 1.

In response, the Examiner agreed that the proposed amendments may overcome the rejection of claim 1. For at least the foregoing reasons, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 1, along with its dependent claims.

Claim 11 has been amended to include features similar to the above-recited features of claim 1. Therefore, for at least the reasons presented above with respect to claim 1, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 11, along with its dependent claims.

New Claims

New claims 16 and 17 respectively depend from claims 1 and 11. Therefore, claims 16 and 17 are believed to be allowable for at least the reasons presented above with respect to claims 1 and 11.

Conclusion

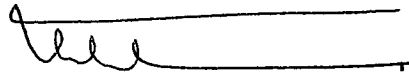
Having fully responded to all matters raised in the Office Action, Applicants submit that all claims are in condition for allowance, an indication for which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

Application Serial No.: 10/797,619

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Babak Akhlaghi
Limited Recognition No. L0250

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 BA:MWE
Facsimile: 202.756.8087
Date: March 29, 2010

**Please recognize our Customer No. 20277
as our correspondence address.**